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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,575	03/27/2006	Scott W. McLellan	McLellan 20	4833
46900	7590	06/16/2009	EXAMINER	
MENDELSON, DRUCKER, & ASSOCIATES, P.C. 1500 JOHN F. KENNEDY BLVD., SUITE 405 PHILADELPHIA, PA 19102			HERRERA, DIEGO D	
			ART UNIT	PAPER NUMBER
			2617	
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			06/16/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/573,575	MCLELLAN, SCOTT W.
	<b>Examiner</b>	<b>Art Unit</b>
	DIEGO HERRERA	2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 02 June 2009.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.  
 4a) Of the above claim(s) 6,7,11 and 12 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-5,8-10,13-18 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____.   | 6) <input type="checkbox"/> Other: _____ .                        |

## DETAILED ACTION

### ***Response to Amendment***

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claims 1-4, 9, and 13-14 are amended.

Claims 6-7, and 11-12 have been cancelled.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-5, 8-10, and 13-18 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, 8-10, 13 and 15-16 rejected under 35 U.S.C. 102 (b) as being anticipated by Hoke, JR. (US 20050143049 A1), hereinafter, Hoke.

**Regarding claim 1.** Hoke discloses a mobile phone set (abstract, title, fig. 1, and 3) comprising:

a personal Locator beacon transmitter circuit which transmits a beacon (¶: 10-11, Hoke teaches having transmitter of PLB nature transmitting at 406 MHz recognize by COSPAS-SARSAT satellite system) that includes an identification code selected from a serial number and a phone number of the mobile phone set (abstract, title, fig. 1-3, ¶: 12-13, 29, 31, 35, Hoke teaches PLB that transmit information signal with ESN or ANI); and a microprocessor coupled to the personal locator beacon transmitter circuit (¶: 30, Hoke teaches the vast amount of configuration within a mobile device as to coupling between microprocessor and PLB transmitter) and configured to activate the personal locator beacon transmitter circuit only when there is no mobile phone service available and a user of the mobile phone set requests emergency service (abstract, title, ¶: 7, 25-27, 35; Hoke teaches as described in abstract, "The above actions being initialized by end users of wireless connectivity devices where regular wireless connectivity is not available.").

**Regarding claim 9.** Hoke discloses a method of requesting emergency service on a mobile phone handset (abstract, title, fig. 9, col. 6 lines: 4-18, 30-38, teaches a mobile phone set and/or PLB, personal location beacon) comprising the steps of: determining whether mobile phone service is available (abstract, title, fig. 1-3, ¶: 4-10; Hoke teaches determining means for use of wireless network communication and/or satellite communication system):

When mobile phone service is unavailable and a user of the mobile phone handset requests emergency service (abstract, title, ¶: 7, 25-27, 35; Hoke teaches as described in abstract, "The above actions being initialized by end users of

wireless connectivity devices where regular wireless connectivity is not available."), transmitting, using a personal locator beacon transmitter circuit of the mobile phone handset (fig. 1-3, abstract, title, ¶: 9), a beacon that includes an identification code selected from a serial number and a phone number of the mobile phone handset (abstract, title, fig. 1-3, ¶: 12-13, 29, 31, 35, Hoke teaches PLB that transmit information signal with ESN or ANI).

**Consider claim 2.** A phone set according to claim 1, further comprising a global positioning system receiver circuit coupled to the microprocessor, the microprocessor further configured to include location coordinates from the global positioning system receiver circuit with the beacon transmitted by the personal Locator beacon transmitter circuit (fig. 1-3, title, abstract, ¶: 27-29, Hoke teaches GPS location coordinates sending with the PLB, personal location beacon, through means of a processor unit when in a remote area).

**Consider claim 3.** A phone set according to claim 1, Hoke discloses wherein the personal Locator beacon transmitter circuit transmits a beacon at a frequency of approximately 406 MHz (title, abstract, fig. 1-3, ¶: 11, 28).

**Consider claim 5.** A phone set according to claim 4, further comprising a microphone coupled to the personal Locator beacon transmitter circuit such that the homing signal includes voice transmission (¶: 31, 34, Hoke teaches receiving information such as digitized voice and text information with other pertinent data as to the emergency or special considerations).

**Consider claim 8.** A phone set according to claim 1, further comprising a short range transceiver coupled to the personal Locator beacon transmitter circuit and the microprocessor such that the beacon includes emergency information received from the short range transceiver (fig. 1-3, abstract, title, ¶: 29, 31, 34, Hoke teaches Bluetooth enabled device in use with WCD's, hence, short-range transceiver).

**Consider claim 10.** The method according to claim 9, further comprising obtaining global positioning system location\_coordinates, wherein the beacon includes said global positioning system location coordinates (fig. 1-3, title, abstract, ¶: 11, 31, Hoke teaches GPS location coordinates with the PLB transmission).

**Consider claim 13.** The method according to claim 9, Hoke discloses wherein the personal locator beacon transmitter circuit transmits a beacon at a frequency of approximately 406 MHz (title, abstract, fig. 1-3, ¶: 11, 28).

**Consider claim 15.** The method according to claim 14, wherein voice transmission is included with the homing signal (abstract, title, fig. 1-3, ¶: 31, 34; Hoke teaches receiving information such as digitized voice and text information with other pertinent data as to the emergency or special considerations).

**Consider claim 16.** The method according to claim 9, further comprising receiving emergency information from a short range transceiver located in the mobile phone handset, wherein the beacon includes the received emergency information\_(fig. 1-3, abstract, title, ¶: 29, 31, 34, Hoke teaches Bluetooth enabled device in use with WCD's, hence, short-range transceiver).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoke (US 20050143049 A1), and further in view of Holmes et al. (US 7162395 B1).

**Consider claim 4.** A phone set according to claim 3, However, Hoke does not specifically discloses wherein the personal Locator beacon transmitter circuit also transmits a homing signal at a frequency selected from approximately 121.5 MHz and 243 MHz; nevertheless, Holmes et al. teaches a system for testing devices functional attributes of having a 121.5 MHz and 243 MHz radio frequency (title, abstract, fig. 6, col. 1 lines: 20- 34, 45, col. 2 lines: 61-65, col. 3 lines: 6-12, col. 4 lines: 4-53, col. 5 lines: 14-17, Holmes et al. teaches a PDA or a handheld computing device that is tested for radio frequencies beacon which include 121.5 MHz and 243 MHz and 306 MHz as described in the references these are known frequency signals for distress alert and

location data to assist search and rescue operations emitted by distress beacons).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention to include these radio frequencies as taught by Holmes et al. for the purposes of, or motivated by making sure signals coming out of the device are transmitting at said frequencies to transmit pertinent information to rescuers and authorities to location for help or aid, one skilled in the art would be able to add these features in said mobile device (col. 1 lines: 26-34, col. 3 lines: 20-53).

**Consider claim 14.** The method according to claim 9, However, Hoke does not specifically discloses wherein the personal locator beacon transmitter circuit transmits a homing signal at a frequency selected from approximately 121.5 MHz and 243 MHz ; nevertheless, Holmes et al. teaches a system for testing devices functional attributes of having a 121.5 MHz and 243 MHz radio frequency (title, abstract, fig. 6, col. 1 lines: 20-34, 45, col. 2 lines: 61-65, col. 3 lines: 6-12, col. 4 lines: 4-53, col. 5 lines: 14-17, Holmes et al. teaches a PDA or a handheld computing device that is tested for radio frequencies beacon which include 121.5 MHz and 243 MHz and 306 MHz as described in the references these are known frequency signals for distress alert and location data to assist search and rescue operations emitted by distress beacons). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention to include these radio frequencies as taught by Holmes et al. for the purposes of, or motivated by making sure signals coming out of the device are transmitting at said frequencies to transmit pertinent information to rescuers and authorities to location for

help or aid, one skilled in the art would be able to add these features in said mobile device (col. 1 lines: 26-34, col. 3 lines: 20-53).

Claims 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoke (US 20050143049 A1), and further in view of Sakurai et al. (US 20020183904 A1).

**Consider claim 17.** The method according to claim 16, wherein:

Hoke may not disclose the short range transceiver communicates with a black box recorder of a vehicle; and the beacon includes emergency information received from said black box, nevertheless, the examiner maintains that it was well known in the art at the time the invention was made and taught by Sakurai et al. (abstract, title, fig. 1, 6-8, ¶: 52, 56-57, 77; Sakurai et al. teaches ECU or better known as a black box recorder having short range transceiver device sending information related to distress or emergency). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to specifically include ECU or better known as a black box recorder in vehicle having short range transceiver device sending information related to distress or emergency, as taught by Sakurai et al. for the purposes of sending information regarding distress or emergency (¶: 53). One ordinary skilled in the art would be motivated to apply the invention of Sakurai et al. as it enhances the invention of Hoke by providing communication between the mobile and the vehicles ECU or black box, since the invention of Hoke teaches Bluetooth and/or short-range communication it is seamless to communicate with a vehicle equipped with a ECU and transceiver to communicate with mobile device.

**Consider claim 18.** A phone set according to claim 8, wherein:

Hoke may not disclose the short range transceiver communicates with a black box recorder of a vehicle; and the beacon includes emergency information received from said black box, nevertheless, the examiner maintains that it was well known in the art at the time the invention was made and taught by Sakurai et al. (abstract, title, fig. 1, 6-8, ¶¶: 52, 56-57, 77; Sakurai et al. teaches ECU or better known as a black box recorder having short range transceiver device sending information related to distress or emergency). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to specifically include ECU or better known as a black box recorder in vehicle having short range transceiver device sending information related to distress or emergency, as taught by Sakurai et al. for the purposes of sending information regarding distress or emergency (¶: 53). One ordinary skilled in the art would be motivated to apply the invention of Sakurai et al. as it enhances the invention of Hoke by providing communication between the mobile and the vehicles ECU or black box, since the invention of Hoke teaches Bluetooth and/or short-range communication it is seamless to communicate with a vehicle equipped with a ECU and transceiver to communicate with mobile device.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIEGO HERRERA whose telephone number is (571)272-0907. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Diego Herrera/  
Examiner, Art Unit 2617

/Lester Kincaid/  
Supervisory Patent Examiner, Art Unit 2617